

*Patterson, J*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12/2/10

CLAL FINANCE MUTUAL FUND  
MANAGEMENT, LTD, and MARLENE  
STULBACH, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

vs.

JPMORGAN CHASE & CO., J.P. MORGAN  
CLEARING CORP., J.P. MORGAN  
SECURITIES INC., J.P. MORGAN FUTURES  
INC., HSBC HOLDINGS PLC, HSBC  
SECURITIES (USA) INC., and HSBC BANK  
USA, NATIONAL ASSOCIATION,

Defendants.

Case No. 1:10-cv-08392

Hon. Robert P. Patterson

**STIPULATION AND [PROPOSED] ORDER**

Plaintiffs CLAL Finance Mutual Fund Management, Ltd, and Marlene Stulbach and defendants JPMorgan Chase & Co., J.P. Morgan Clearing Corp., J.P. Morgan Securities Inc., J.P. Morgan Futures Inc. (collectively, "JPMorgan"), HSBC Securities (USA) Inc. and HSBC Bank USA, National Association (collectively, "HSBC") (together with JPMorgan, "Stipulating Defendants"), by and through their respective undersigned counsel, subject to this Court's approval, agree and stipulate as follows concerning Stipulating Defendants' time to answer, move to dismiss or otherwise respond to the complaint in the above-captioned proceeding (the "Complaint"):

**RECITALS**

WHEREAS, on November 05, 2010, Plaintiffs commenced the above-captioned proceeding in this District;

WHEREAS, other cases alleging similar claims under the Commodity Exchange Act, 7 U.S.C. § 1, *et seq.*, Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1, *et seq.*, and other laws have been filed in United States District Court for the Southern District of New York and in the United States District Court for the Eastern District of New York against Stipulating Defendants (collectively, with the above-captioned action, the "Actions");

WHEREAS, the Plaintiff in the Action styled *DePaoli v. JPMorgan Chase & Co., et al.*, 1:10-cv-05054 (E.D.N.Y.), filed a Motion for Transfer and Consolidation of Related Antitrust Actions Pursuant to 28 U.S.C. § 1407 ("DePaoli Motion");

WHEREAS, the Plaintiff in the Action styled *Nalven v. JP Morgan Chase & Co., et al.*, 1:10-cv-08284 (S.D.N.Y.), filed a Motion for Transfer and Consolidation of Related Antitrust Actions Pursuant to 28 U.S.C. § 1407 ("Nalven Motion");

WHEREAS, the Judicial Panel on Multidistrict Litigation ("JPML") has assigned MDL No. 2213 and has ordered that any responses to the DePaoli Motion and the Nalven Motion are due on or before November 29, 2010;

WHEREAS, the parties therefore agree that Stipulating Defendants need not answer or otherwise respond to the Complaint because the Complaint will likely be superseded by a consolidated amended complaint in MDL No. 2213;

WHEREAS, this is the parties' first application to extend the time for Stipulating Defendants to respond to the Complaint;

THEREFORE, IT IS STIPULATED AND AGREED:

1. Stipulating Defendants need not answer, move to dismiss or otherwise respond to the Complaint until after the JPML rules on whether to transfer this Action as part of MDL No. 2213.

2. Stipulating Defendants shall have 60 days to answer, move to dismiss or otherwise respond to the operative complaint in this Action from the earlier of (1) the filing of a consolidated amended complaint in MDL No. 2213, or (2) service of the JPML's decision that this Action will not be transferred as part of MDL No. 2213.

3. The entry into this Stipulation shall not constitute a waiver of any defense.

4. If any answer or other responsive pleading is filed by any Stipulating Defendant in any of the Actions before the date provided by this Stipulation, or if any documents are produced in such Actions, the Stipulating Defendants will file their answer or responsive pleading, and shall produce such documents, in this Action. Any production of documents will be subject to a protective order to be negotiated by the parties.

5. Stipulating Defendants agree that they have been served or have agreed to waive service with respect to this Action.

6. All parties agree that they will preserve documents and other materials in accordance with their obligations under the Federal Rules of Civil Procedure. By preserving a document, a party does not concede that the document is discoverable or relevant.

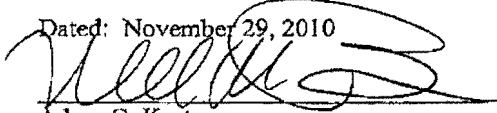
7. By entering into this Stipulation, no party thereto shall be precluded from arguing that the JPML petitions that have been filed are legally insufficient or otherwise should be dismissed.

8. Neither party shall rely on this Stipulation to argue that this Action is

stayed.

AGREED:

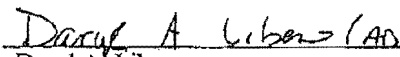
Dated: November 29, 2010

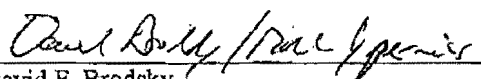
  
Adam G. Kurtz  
Michael M. Buchman  
POMERANTZ HAUDEK GROSSMAN  
& GROSS LLP  
100 Park Avenue, 26<sup>th</sup> Floor  
New York, New York 10017  
Telephone: (212) 661-1100  
Facsimile: (212) 661-8665

David Jaroslawicz  
JAROSLAWICZ & JAROS  
25 Broadway, 24<sup>th</sup> Floor  
New York, New York 10007  
Telephone: (212) 227-2780  
Facsimile: (212) 227-5090  
davidjaroslawicz@yahoo.com

Cecil Gardner  
Kimberly C. Walker  
THE GARDNER FIRM P.C.  
210 S. Washington Avenue  
Mobile, Alabama 36602  
Telephone: (251) 433-3200  
Facsimile: (251) 433-8181

Eric Franz  
Timothy Parlatore  
LAW OFFICES OF ERIC FRANZ,  
P.L.L.C.  
747 Third Avenue, 20<sup>th</sup> Floor  
New York, New York, 10017  
Telephone: (212) 355-2200  
Facsimile: (212) 937-2217

  
Daryl A. Libow  
SULLIVAN & CROMWELL LLP  
1701 Pennsylvania Avenue, NW  
Washington, DC 20006  
(202) 956-7500  
*Attorneys for Defendants JPMorgan Chase &  
Co.; J.P. Morgan Clearing Corp.; J.P. Morgan  
Securities Inc.; J.P. Morgan Futures, Inc.*

  
David E. Brodsky  
CLEARY GOTTLIBB STEEN &  
HAMILTON LLP  
One Liberty Plaza  
New York, NY 10006  
(212) 225-2000

Michael Lazerwitz  
Leah Brannon  
CLEARY GOTTLIBB STEEN &  
HAMILTON LLP  
2000 Pennsylvania Ave, NW  
Washington, DC 20006  
(202) 974-1500  
*Attorneys for Defendants HSBC Securities  
(USA) Inc. and HSBC Bank USA, National  
Association*

Timothy Battin  
STRAUSS & BOIES  
4040 University Drive 5<sup>th</sup> Floor  
Fairfax, Virginia, 22030  
Telephone: (703) 764-8700  
Facsimile: (703) 764-8704

Lionel Glancy  
GLANCY BINKOW & GOLDBERG  
LLP  
1801 Avenue of the stars Suite 311  
Los Angeles, California 90067  
Telephone: (310) 201-9150  
Facsimile: (310) 201-9160

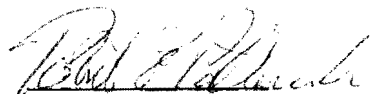
Edith M. Kallas  
Joe R. Whatley Jr.  
WHATLEY DRAKE & KALLAS  
1540 Broadway, 37<sup>th</sup> Floor  
New York, New York 10036  
Telephone: (212) 447-7070  
Facsimile: (212) 447-7077

Daniel E. Gustafson  
Jason S. Kilene  
Daniel C. Hedlund  
GUSTAFSON GLUEK, PLLC  
650 Northstar East  
608 Second Avenue South  
Minneapolis, Minnesota 55402  
Telephone: (612) 333-8844  
Facsimile: (612) 339-6622

*Attorneys for Plaintiffs CIAL Finance  
Mutual Fund Management, Ltd. And  
Marlene Stulbach*

IT IS SO ORDERED:

12/1/10

  
Hon. Robert P. Patterson  
United States District Judge

BC